

REMARKS

Claims 54, 55, 57, 60-63 and 66-70 remain pending in the application.

Independent claim 54 has been amended to recite a plurality of non-overlapping spring elements formed from nitinol and adapted to impart a continuous compressive force that does not exceed 10 mm Hg on an outer surface of the heart during diastole and systole. Support for the "non-overlapping" element can be found throughout the specification and drawings, and particularly with reference to FIGS. 8A-8E and the specification relating thereto. Also, support for the pressure exerted on the heart by the spring elements that does not exceed 10 mm Hg can be found at page 27, lines 5-6 of the specification. No new matter is presented. Reconsideration is requested.

Claim Rejections Under 35 U.S.C. § 112(b)

Claims 54, 55, 27, 60-63 and 66-70 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner asserts that claim 54 includes "a continuous compressive force of less than 3 mm Hg on an outer surface of the heart during diastole and systole" is not supported in the specification. Applicant respectfully traverses. As a preliminary matter, rejected claim 27 is believed to be a typographical error and Applicant is assuming that claim 57 has been rejected, rather than claim 27. At page 27, lines 1-2 of the specification, the "compliance of the elastic harness 4 is in the range of compliance of native pericardium or latissimus dorsi muscle wraps." Applicant believes there is support for a continuous compressive force of less than 3 mm Hg due to the reference of the compressive force of the native pericardium. It is known in the art that the compressive force of the native pericardium can be less than 3 mm Hg. However, in order to overcome the § 112 rejection, Applicant has amended claim 54 to recite the broader range of a continuous compressive force "that does not exceed 10 mm Hg" on an outer surface of the heart during diastole and systole. Support for the compressive force that does not exceed 10

mm Hg can be found at page 27, lines 5-6 in the specification. It is believed that the claim, as amended, overcomes the rejection under § 112. Further, it is believed that the claims as amended are patentably distinguishable over the prior art of record and it is respectfully requested that the application be passed to issue.

Claims 54, 55, 57, 60-63, and 66-70 remain pending in the application. If a telephone conference would facilitate prosecution of the application, the undersigned can be reached at (310) 824-5555.

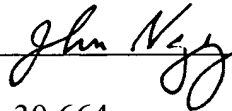
Respectfully submitted,

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